

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the proposed adoption of) NOTICE OF PUBLIC HEARING
NEW RULE I, responsibility for costs; and) ON PROPOSED ADOPTION
proposed amendment of ARM 23.12.103) AND AMENDMENT
through 23.12.105, concerning criminal)
history records program)

TO: All Concerned Persons

1. On November 15, 2006, at 9:00 a.m., the Montana Department of Justice will hold a public hearing in the auditorium of the Scott Hart Building, 303 North Roberts, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

2. The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on November 1, 2006, to advise us of the nature of the accommodation that you need. Please contact Jon Ellingson, Department of Justice, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401; (406) 444-2026; Montana Relay Service 711; fax (406) 444-3549; or e-mail jellingson@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I RESPONSIBILITY FOR COSTS (1) If a city or town commits a person to the detention center of the county in which the city or town is located for a reason other than detention pending trial for violating an ordinance of that city or town, or detention for service of a sentence for violating an ordinance of that city or town, the costs associated with meeting the regulatory requirements of this subchapter shall be borne by the county.

AUTH: 44-5-105, MCA
IMP: 44-5-213, MCA

REASON: This rule is necessary to provide consistency with 7-32-2242(b), MCA.

4. The rules as proposed to be amended provide as follows, matter to be added underlined, matter to be deleted interlined:

23.12.103 MONTANA ARREST NUMBERING SYSTEM NUMBER TO BE ASSIGNED - CJIN (1) Following a custodial or felony arrest, the arresting agency or ~~by agreement~~ the custodial agency shall access the Montana arrest numbering system (MANS) through the CJIN and have a number assigned to that custodial or felony arrest.

(2) Prior to release, the arresting agency, custodial agency, or the courts shall ensure that an individual has been fingerprinted and a MANS number registered on the criminal case history and final disposition report form.

(3) remains the same.

AUTH: 44-5-105, 44-5-213, MCA

IMP: 44-5-213, MCA

23.12.104 FINGERPRINT CARD (1) Whenever a person charged with a crime is fingerprinted under 44-5-202, MCA, two original FBI fingerprint cards, form number FD-249, must be completed by the ~~arresting agency~~ appropriate law enforcement agency and submitted to the department.

(2) through (4) remain the same.

AUTH: 44-5-105, MCA

IMP: 44-5-213, MCA

23.12.105 CRIMINAL CASE HISTORY AND FINAL DISPOSITION REPORT

(1) Whenever an individual charged with a crime is fingerprinted under 44-5-202, MCA, a criminal case history and final disposition report, form number CHRP1, made available by the department, must be initiated by the arresting or custodial agency. The report form or computer program design must be in a format approved by the department and must include the information designated on the form.

(2) remains the same.

(a) Before the individual is released from custody, the information pertaining to the individual and the initial charge(s) must be completed by the arresting or custodial agency and forwarded to the court of appropriate jurisdiction prior to the individual's initial appearance.

(b) through (4) remain the same.

AUTH: 44-5-105, MCA

IMP: 44-5-213, MCA

REASON: These amendments are needed to provide consistency with proposed NEW RULE I. The amendments address the fact that responsibility for meeting the regulatory requirements of this section will not always lie with the arresting agency.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Jon Ellingson, Department of Justice, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401, fax (406) 444-3549; or e-mail jellingson@mt.gov, and must be received no later than November 24, 2006.

6. Jon Ellingson, Assistant Attorney General, Department of Justice, Legal Services Division, has been designated to preside over and conduct the hearing.

7. The Department of Justice maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices of rules regarding the Crime Control Division, the Central Services Division, the Forensic Sciences Division, the Gambling Control Division, the Highway Patrol Division, the Law Enforcement Academy, the Division of Criminal Investigation, the Legal Services Division, the Consumer Protection Division, the Motor Vehicle Division, the Justice Information Systems Division, or any combination thereof. Such written request may be mailed or delivered to Jon Ellingson, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401, faxed to the office at (406) 444-3549, ATTN: Jon Ellingson, e-mailed to jellingson@mt.gov, or may be made by completing a request form at any rules hearing held by the Department of Justice.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

By: /s/ Mike McGrath
MIKE McGRATH
Attorney General
Department of Justice

/s/ Jon Ellingson
JON ELLINGSON
Rule Reviewer

Certified to the Secretary of State on October 16, 2006.